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In re Application of

KRAUS, Willi

Application No.: 10/518,805

PCT No.: PCT/DE03/01861

Int. Filing Date: 05 June 2003

Priority Date: 19 June 2002

Attorney Docket No.: TRWZ 2 00280

For: CLOSURE COVER

DECISION

This is a decision on the documents filed via facsimile on 14 November 2005 and 21 December 2005 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 23 May 2005, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond.

On 22 July 2005, applicant submitted a signed declaration and the surcharge fee. The declaration listed the surname of the sole inventor as "Willibald" while the international publication listed the surname as "Willi."

On 31 August 2005, a communication indicating that the declaration filed 22 July 2005 was not in compliance with 37 CFR 1.497(a) and (b) was mailed.

On 26 September 2005, applicants submitted a response claiming that the declaration was in compliance with 37 CFR 1.497(a) and (b) because the name of the inventor was appropriate as listed. Petitioner argued that the name "Willi" is a nickname or abbreviation of the actual surname "Willibald."

On 13 October 2005, a communication indicating that applicant's explanation was not acceptable and the declaration filed 22 July 2005 was not in compliance with 37 CFR 1.497(a) and (b) was mailed.

On 24 October 2005, applicant purportedly filed a response which was accompanied by, *inter alia*, a new declaration and a request for a three-month extension of time and fee. These papers were not located in the file.

On 14 November 2005, applicant submitted via facsimile a copy of the papers purportedly filed 24 October 2005.

On 21 December 2005, applicant resubmitted a copy of the papers purportedly filed 24 October 2005 along with a copy of the date-stamped postcard receipt for the 24 October 2005 response.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicant must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant provided a copy of the date-stamped postcard receipt for documents submitted on 24 October 2005. The postcard receipt identified the application by the application number, docket number and title. The postcard receipt indicates that a "Declaration and Power of Attorney" was received in the USPTO. The postcard receipt is stamped "JC03 Rec'd PCT/PTO 24 OCT 2005" across its face. Moreover, USPTO financial records also show that a \$1,020.00 extension fee was received on 24 October 2005.

Accordingly, applicant has provided *prima facie* evidence that a declaration was filed 24 October 2005.

CONCLUSION

In view of the above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The declaration filed 24 October 2005 is in compliance with 37 CFR 1.497(a) and (b). Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 05 June 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 October 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.


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